

INITIAL STATEMENT OF REASONS
OVERVIEW/NON-CONTROLLING SUMMARY

Regulation 2500

Regulation 2500 specifies the records to be kept by alcoholic beverage taxpayers.

Specific Purpose

The proposed amendments implement and make specific Revenue and Taxation Code Sections 32452 and 32453 by clarifying the record keeping requirements for all alcoholic beverage tax licensees. The proposed amendments also add language concerning machine sensitive records and alternative storage media in order to make the regulation consistent with Sales and Use Tax Regulation 1698 (Title 18, Cal. Code of Regs., Section 1698).

Factual Basis

The current regulation describes the recordkeeping requirements for all alcoholic beverage tax licensees. Sections 32452 and 32453 require that all licensees keep records in such form as the board may require. The statutes do not specify how the records must be maintained or for what period of time. The proposed amendments describe the records and documentation that must be retained and describe the manner in which they may be maintained. Specifically, maintaining records in automated data processing systems is acceptable, as is the use of microfilm and microfiche. The proposed amendments describe in detail the standards and requirements for maintaining records in each of these formats.

From information gathered during audits and discussions with industry, the board has determined that taxpayers are altering their information storage practices to take advantage of new developments in electronic media. For this reason, the board determined that it was necessary to adopt the proposed amendments to the regulation to promulgate in regulatory form requirements for taxpayer records being kept on electronic media and for the maintenance of records for the purpose of maintaining an audit trail in order to provide standard guidelines in a form publicly available.

In drafting the proposed amendments, the board has taken into account the electronic record keeping methods that it determined through audits and consultations with industry are currently utilized. The provisions of the proposed amendments generally follow current practices where such practices are consonant with the statutory requirements, as interpreted by the courts, that taxpayers maintain adequate records from which the board may verify the accuracy of their returns (See, Paine v. S.B.E. (1982) 137 Cal.App.3d 437-8, 443.) Where they are not, the board has, in consultation with industry, developed procedures that modify existing information storage practices to the minimum necessary to conform to the requirements of the statute. By incorporating current industry standards into the proposed amendments, the board will alert taxpayers as to the record

keeping methods approved by the board, while at the same time alleviating the compliance burden.

The proposed amendments are nearly identical to Regulation 1698, which pertains to the Sales and Use Tax Law. Incorporation of the same standards and requirements in the proposed amendments simplifies recordkeeping for taxpayers who are subject to both the Sales and Use Tax and the Alcoholic Beverage Tax.

In addition, the title of the regulation has been changed to reflect the changes made to the regulation, and authority and references for the regulation have been added.

Regulation 2538

Regulation 2538 specifies return reporting requirements when taxpayers have two types of licenses.

Specific Purpose

The proposed language clarifies which return is required to be filed and to correct gender specific language.

Factual Basis

There is no substantive change. The change is proposed to set forth current Board procedures and requirements.

Regulation 2552

Regulation 2552 describes exemptions allowable for spoiled beer and wine.

Specific Purpose

The proposed changes clarify that an exemption is allowable only for tax-paid beer or wine and to create consistency with section 32176 of the Alcoholic Beverage Tax Law.

Factual Basis

There is no substantive change. The change is proposed to set forth current Board procedures and requirements.